D21

19 39

Department of Revenue

OFFICE Board of Revenue

STATION Madras

Mis No. 1489

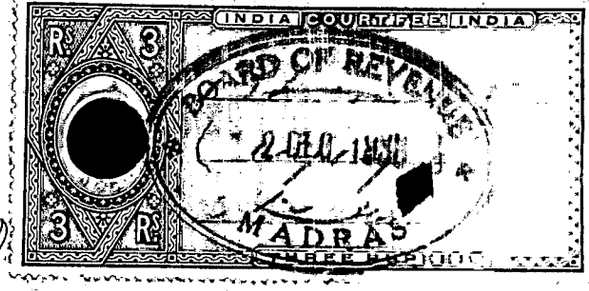
Dated 31 . 5 . 39

A 6709/38.

Pages in the file { CF. 42 Mf. 10 52

(SUBJECT.)

Village Officers — Patel — Deputy — (S. Kanara)
Vedipi Taluk — Alienation of village — Application for
Appeal by Sriniwasa Bhatta — Allowed.



Before the Hon'ble Board of

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

APPELLATE JURISDICTION.

46709/38

Petition No. of 193

(against the order No. of 192 on the file of the) Collector of

Court of the Sentu Kanara in D.R. no 3855/1938

Alevoor Sunvasa Bhatta Appellant Petitioner

Krishna Bhatta Respondent

I Alevoor Sunvasa Bhatta, Son of ~~W~~ Hindu Madhwa Brahmin, aged about years residing at Alevoor village Sentu Kanara

Appellant / Respondent / Petitioner, in the above Appeal / Petition do hereby appoint and retain

Mr. / Messrs. K. P. Bhat B.A.B.L

Advocate of the High Court, to appear for me in the above Appeal / Petition and to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein, including all applications for return of documents or the receipt of any money that may be payable to me in the said Petition and also in petitions for review and appeal under Section 15 of the Letters Patent and in applications for leave to appeal to His Majesty in Council.

I certify that the contents of this Vakalat were read out and explained in Kana- rese by me (in my presence) to the executant who appeared perfectly to understand the same and made his, her, their signature in my presence

ಶ್ರೀ ವಿ. ನಂಜುಂಡಯ್ಯನವರು

Executed before me this 21 day of Nov 1938.

Accepted
K.P. Bhat
Advocate
No 4. Law Chambers
High Court Madras

Purvey Clerk
21.11.38
Board Dept Bd

2

S. R. No. South Kanara District.

Before the Board of Revenue

In The ~~High Court~~, Madras.

~~Appeal~~ No. of 193 .

(against ~~O.~~ D. No. 3855 of 1938

on the file of the Court of the Collector of South Kanara.

Alavar Sreeniva Bhatta *Appellant / Petitioner*

Krishna Bhatta *Respondent*

VAKALAT.

K. P. Bhat

ACCEPTED

Counsel for ~~Respondent~~ Appellant ~~Petitioner~~

Mr. / Messrs. K. P. Bhat

Advocate for ~~Respondent~~ Appellant (~~Petitioner~~)

Address for Service:

No. 4. Law Chambers

~~High Court Buildings~~ Madras.

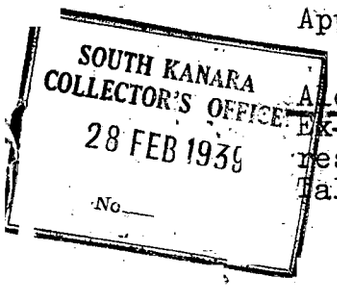
BEFORE THE HONOURABLE THE BOARD OF REVENUE MADRAS. CFL Rs5/-

A 6709

Appeal Petition No. of 1938.

The Order of the Collector of South Kanara District In D.Dis.No. 3855 of 1938 appointing the respondent as Patel of Alevur Village in the place of the Appellant - Petitioner.

P.9 CF



Alevur Srinivasa Bhatta, Ex-Deputy Patel of Alevur Village residing at Alevur Village, Udipi Taluw, South Kanara.) Appellant - Petitioner.

vs

Krishna Bhatta, son of Narayana Bhatta of Alevur Village, residing at Alevur Village, Udipi Taluq, South Kanara.) Respondent.

Srinivasa Bhatta

The Appellant Petitioner abovenamed begs to present this Appeal Petition against the Order of the Collector of South Kanara in D.Dis. No.3855 dated 7-10-1938 cancelling the Order of the Kundapur Revenue Divisional Officer R. Dis. No. 741 of 1938 and appointing the Respondent Krishna Bhatta as Patel of Alevur Village, South Kanara for the following among other grounds:

P.9 CF

P.11 CF

1. The Collector's Order is illegal and opposed to the definite provisions of the Board's Standing Orders on the subject.

P.9 CF

2. The Learned Collector's reasoning that the heriditary principles do not apply to this District and so he would be justified in appointing the respondent in the place of the Appellant is not correct and that must be all the better reasons for continuing the Appellant-Petitioner himself and confirming his appointment as Deputy. If the heriditary principles do not apply the respondent has no case at all.

The Collector ought not to have disturbed the arrangement which had worked satisfactorily and which had been upheld by the Revenue Divisional Officer.

3. The Collector's reason that the District namely South Kanara District is a non-heriditary tract and so the heriditary principles need not be strictly followed in every detail is not correct or justified. The respondent's claim itself is on the basis of statutory rights and his appointment was on the analogy of the principles underlying Section 10 Sub Clause 3 of Act III of 1895 and if the Statutory principles are to be applied, the whole thing is to be taken into account. There is no justification to apply heriditary principles for purposes of appointment only and fail to apply the same for purposes of forfeiture of appointment for failure to qualify within 3 years of attaining majority which is provided for under Clause 5 of the same Section 10. This has not been properly appreciated by the Collector in passing the order he did.

4. Further the Appellant-Petitioner submits that the deviations from the statutory obligation of forfeiture of appointment are not justified in the circumstances of the present case. The Learned Collector failed to note that the Respondent's elder brother forfeited his appointment on account of this very statutory provision on a prior occasion for this very post. In this connection the appellant begs to refer to order dated 10th October 1934 in D.Dis. No.3364 of 1934 of the Collector of South Kanara (Mr.E.M.Gawne); a certified copy of the said order is herewith enclosed.

5. The Learned Collector also failed to note that at the time of the Registration of the respondent in Sub-Collector's Order R. Dis. 7780-33 the respondent was specifically directed to fulfil the requirements of the provisions to qualify himself

within three years of his attaining majority. As he had failed to do so, he forfeited his appointment on the terms of the very order itself. This fact has been completely overlooked by the Collector. A certified copy of the said order also is herewith enclosed and a reference to the same is also solicited.

6. Further, the Appellant-Petitioner submits that the respondent is also otherwise not qualified in as much as he has no property qualification; this consideration is also very important in these days of frequent defalcation by Village Headmen. The Board's Standing Order on the subject lays considerable emphasis on this and required only men of property should be appointed as Village Headmen.

7. The necessary enquiries made in this connection by the Tahsildar had revealed that the respondent had absolutely no property worth the name and that he got a bogus sale deed executed in his favour by a relation of his just to satisfy the requirements at the time. The Tahsildar who held the necessary enquiry in this behalf was satisfied that the respondent had no property of his own and if this Hon'ble Board were to call for all records in these proceedings, they will clearly show the correctness of the above allegations. Hence the Appellant Petitioner submits that the Learned Collector in appointing the respondent to such a responsible post has completely ignored and overlooked the most important provision of the Board's Standing Order on the subject and the requirements therein.

8. The Appellant Petitioner therefore prays that this Hon'ble Board may be pleased to call for all the connected records in these proceedings and cancel the Collector's Order and restore the Revenue Divisional Officer's Order dismissing the Petition of the respondent before him.

9. The Appellant Petitioner also prays that the Petitioner's counsel may be permitted to plead on his behalf and urge and advance other grounds before this Hon'ble Board when the above petition is taken up for consideration.

10. The Appellant Petitioner submits that this may be treated as a First Appeal against the Order of the Collector as the Collector has passed an order dated D.Dis. No. 3855 of 1938 appointing the respondent as the Patel for the first time and by the provisions of the Board's Standing Orders, there would be an appeal against such orders, which make the appointment for the first time; if however this Honourable Board were to hold that there would be no appeal, this may be treated as either a Second Appeal or a Petition presented to the Board in the exercise of its inherent jurisdiction.

9 C

J. P. Bhat
Petitioner's Counsel

Dated at Madras
12th December 1938.

Enclosures

1) Order of the Collector of South Kanara in D Dis 3855/38 dated 7-10-1938 — 9 C

2) Order of the Revenue Divisional Officer Coondapoor South Kanara in R. Dis 241/38 dated 24-5-38 — P. 11 C

3) Order of Sub Collector Coondapoor, S. Kanara in D. Dis 7780/1933 dated 6-Dec 1933 referred to in Para (5). — P. 13 C

4) Certified Copy of the order in D. Dis 3364/34 - of the Proceedings of the Collector dated 10-10-34 referred to in para 4 — P 17 C

(5) Original certificate by Sub Collector dated 21-6-1934 is sued to the appellant — P. 15 C

6) Certified copy of the Proceedings of the Collector in Ref no 3293/33 dated 19-10-1933. — P. 21 C

J. P. Bhat

7

South Kanara Distrdt.

Alevoor village
Udipi Taluq

BEFORE THE HONORABLE THE BOARD
OF REVENUE. MADRAS.

Appeal Petition No. of 1938.

The Order of the Collector of
South Canara District.

Alevur
Sreenivasa Bhatta. Applt.

vs

Krishna Bhatta. Respt.

Appeal Petition Grounds.

Enclosures

1. Vakalat
2) one Bundle
with 6 six enclosure
of appendices

Mr. K.P. Bhat,

Advocate for Appellant.

D. Dis. 3855/38.

Proceedings of the Collector of South Kanara dated the 7th October 1938.

Sri Rao Bahadur M. V. Vellodi, B.A.

Village Officers - Udipi Taluk - Alevur village - Headman-appointment - Appeal - Allowed -

Read:-(1) Appeal Petition dated 20.6.1938 of Krishna Bhatta and his mother Rukmani Amma of Alevur village.

(2) Coondapur Revenue Divisional Officer's R.Dis.3795/38 dated 30th June 1938.

Heard Vakils Messrs. G. Somashekar Rao and A. Laxminarain Rao for the appellants and the Respondent respectively.

Order.

This is an appeal preferred by Krishna Bhatta against the order of the Revenue Divisional Officer, Coondapur. Krishna Bhatta was registered as minor to the Potailship of Alevur village in 1933 but did not qualify himself within three years after attaining his majority. He, however, qualified himself very soon after. The Revenue Divisional Officer has declared that inasmuch as he has not qualified himself within three years after he attained majority, he should be considered to have forfeited his appointment - which is the rule in districts where the Hereditary Village Officers' Act is in force.

xx xx xx

3. The appeal is allowed.

/By Order/

Huzur Sheristedar. 10.10.38

To

The Revenue Divisional Officer, Coondapur, with records R.Dis.7780/33 and R.Dis.741/38 returned.

Copy of paras 1 and 3 alone to the petitioner.

-do- to the Respondent.

10.10.38

A. Mis. 741/38.

Proceedings of the Revenue Divisional Officer, Coondapoor, dated 24-5-38.

Sri K.V.Subrahmanyam Pantulu, B.A.,B.L.

Village Officers - Udipi Taluk - Alevur village - Krishna registered minor Krishna Shetty - forfeiture of claim - appointment in succession - report - Order passed.

Read :- (1) Petition received 27-1-38 from Krishna Shetty, registered patel of Alevur village.

(2) Udipi Tahsildar's Ref. C no. 415 A4-38 dated 4-4-38.

(3) The papers of enquiry.

O R D E R.

This is an intestate case of succession to a village office. Krishna Shetty who was registered as minor heir in this office A.Mis.776-36 dated 6-12-36 did not qualify himself within 3 years after attaining majority.

His elder brother Sadhanandar Yenu Shetty lost his right to the office under similar circumstances, and he has a younger brother by name Ananda Shetty, who is a minor.

2. Though the Madras Hereditary Village Officers Act is not applicable to this District, the principles of the Act are generally followed. In fact Krishna Shetty, who was registered as a minor on the strength of a portion of Sec. 10 (3) of the Act of 1895, cannot question the constitution of the section, which says that he should be deemed to have forfeited his right if he chose to remain disqualified for 3 years after attaining majority. The only question for consideration now is if Krishna Shetty, who is now qualified, is bound as per rule or in other words has he qualified himself before completing the 3rd year.

Forwarded to Shanmugam & Bhatta, by Postal Receipt for Taluk 30-5-38

P. 71 (V)

P. 71 (V)

P. 69 (V)

This has been the issue both before the Tahsildar and also in addition to the enquiry there is a written statement, filed by Krishna Shetty before the Tahsildar on 2-2-38, to the effect he has not completed the full of completion of 21 years of age. According to enquiry he was born in Shirva village, in which his maternal grandfather's house is living, on 20-7-1916. Thus by 12-7-1937 he completed his 21st year, and admittedly he sat for examination held in October 1937. To give another opportunity to prove his age, I gave notice to Krishna Shetty, specially to show if he was not 21 years of age by 12.7.1937. He took time to produce the horoscope, which in the end was not produced, obviously because it would not support his contention. He admits in a statement his parentage and birth at Shirva village in his maternal grandfather's house. He has no evidence to prove he has not completed 21 years on 12-7-37. It is true in the Birth Register Extract entry dated 22-7-16 the name of Krishna Shetty is noted. His age was recorded as 17 in Tahsildar's enquiry in 1936, and therein suggestion that he was born. [illegible] is second of the three sons born [illegible] 22-7-16 [illegible] birth. [illegible]

[illegible] registration [illegible] ction of the Clerk [illegible] office. [illegible] Brother Annayya [illegible] the Head [illegible] the village [illegible] required by Rules.

[illegible] deputy everytime [illegible] it can be [illegible] that [illegible] suffer by continuance [illegible] deputy. The deputy cannot be held responsible [illegible] of the registered [illegible] and the accusation against the deputy has been there ever since his appointment without any [illegible]. The work of the Deputy has been good, and he [illegible] intelligent and active. His term of office may not [illegible] of the minor [illegible] deputy [illegible] of the registered [illegible].

B. N. Hegde 27-5-38

Head Clerk.

[illegible] 30-5-38

Copy to Krishna Bhatta through the Tahsildar, Udipi.
,, Annayya Bhatta by guardian and mother Rukmini, through the Tahsildar, Udipi.
,, Srinivasa Bhatta, Deputy Patel.
,, Tahsildar, Udipi with [illegible] file [illegible] of his office returned.

13

R.Dis 7710-33

Proceedings of the Sub-Collector, Coondapur Division, dated the 6th day of December 1933

K. V. Ramachandran, Esquire, I.A.S.,C.S.

Village officers - Udipi Taluk - Alevoor village- Hereditary Permanent vacancy - Appointment - Ordered.

Udipi Tahsildar's Ref.7093-33, dated 28-11-1933.

Laxminarayana Bhatta, the registered patel of Alevur village having forfeited his post due to failure to qualify himself within 3 years of his attaining majority enquiry was held by the Tahsildar to find out the next claimant to the post. As Laxminarayana Bhatta is found to be his younger brother Krishna Bhatta aged 17 years is reported to be the next claimant to the post.

2. Krishna Bhatta is, therefore, registered as the permanent patel of Alevoor village on condition of his qualifying himself and reporting himself to duty within three years of his attaining majority.

3. Srinivasa Bhatta, deputy to the last registered minor will continue to be deputy to the present minor till the latter attains majority and reports himself to duty.

The guardian of the minor refuses to nominate a qualified man and wants to wait to see if Laxminarayana Bhatta will get qualified whereas Laxminarayana Bhatta in any case be ineligible, as he haven, attempted to cheat Government by telling a lie that he passed one part of the test in 1931 whereas he had not actually passed.

(By order)

Head Clerk. 7.12.33

E 7/12/33

To the minor through his guardian and Tahsildar, Udipi - Copy to minor's guardian and ex-patel through the Tahsildar, Udipi - Copy to the Tahsildar, Udipi.

ఉపాధ్యాయ నియోజకవర్గ శాసనమండలి సభ్యులుగా
ఎన్నిక కావడం పట్ల అభినందనలు తెలియజేస్తూ
రాసిన లేఖ

[illegible]

[illegible]

South Kanara

Before the Board
of Revenue
Madras

Appeal petition no
1934

Sreenivasa Bhatta
Appellant

vs

Krishna Bhatta Respt

Enclosures
with the
appeal petition

1) Collector's order d 7-10-38
2) Sub-Collector's order d 24-5-38
3) Proceedings of the Sub-Collector d 6-12-1933
4) Original Certificate d 24-6-34
5) Certified copy of order d 10-10-34
6) Certified copy of order d 1-9-10-1933

Total 6

V. P. Bhat
Advocate

2.5.38

DRAFT FOR APPROVAL.

	Date.	Initials.	SUBJECT:
When received for fair copying	10/2/39	AKH	V.O.s by Post. (V. Kumara)
When copied	11/2		Ltrs. &c. Alleged legs.
When examined	11.2	HW	Appointment Appeal-
When signed	8/2/39	V.T.	Kumara. Writ
When despatched		DESPATCHED 13 FEB 1939	

READ AGAIN , dated 19

" " " " 19

READ *ALSO*:—

P. 3 C.F. No. A6709/38 From the Jaffna Court, No. , dated 12.12.1938 (1)

" " " " 19

" " " " 19

Agree Order / Resolution — Ms. / Rout. No. A 6709/38-1 dated 9/2 19 39.

Forwarded to the Colr of Kumara for submission of the connected records together with any remarks which he considers necessary on the allegations in the petn which are not clearly dealt with in the records.

Ans 4/2/39

for AA

14/2/39

To

The Colr of Kumara

(with a petn & its enclosures to be returned)

Pages 3-30 of the book—

Sgd/ [illegible]

9-V-1

33

R.P 136 cuds
A 1233

D.Dis.No.1234/39. South Kanara Collector's Office,
Mangalore, 11th March 1939.

#6709/38

From

Sri Diwan Bahadur M. V. Vellodi, B.A.,
Collector of South Kanara.

To

The Secretary to the Board,
Land Revenue & Settlement,
M a d r a s.

Sir,

Village Officers - (South Kanara) - Udipi Taluk - Alevur village - Potail - appointment - Petition - Srinivasa Bhatta.

*****

P. 31. cf Board's Refce.A.No.6709/38, dated 9.2.1939.

*****

PP 3-6 cf I return herewith the petition of Srinivasa Bhatta together with all its enclosures received with the Board's Refce. quoted above.

2. The petitioner seeks a revision of my order,
P. 9 cf D.Dis.No.3855/38, dated 7.10.1938 allowing the Respondent to join the post of Potail of Alevur village, Udipi Taluk in cancellation of the Coondapoor Revenue Divisional officer's
P. 11 cf order, R.Dis.741/38, dated 24.5.1938, registering the minor brother of the Respondent and allowing the petitioner to continue as deputy of the newly registered minor in place of the Respondent who was declared by the Revenue Divisional Officer to have forfeited his appointment on account of his failure to qualify himself and join the post within 3 years of attaining majority.

3. The Respondent, Krishna Bhatta was the registered
P. 13 cf minor potail of Alevur village. He was registered in the vacancy caused by the previous registered minor, - his elder brother, Laxminarayana Bhatta, - having been declared to have

forfeited his appointment on account of his failure to qualify himself and join duty within three years of attaining majority. The petitioner who was the deputy of minor, Laxminarayana Bhatta was allowed to continue as deputy of the newly registered minor (Respondent) in spite of the protest of the guardian of the newly registered minor that the petitioner was their avowed enemy and that he was not likely to have the interests of the minor at heart. There was an appeal preferred by the minor's guardian mother against the petitioner's appointment as deputy. As, however, there was not sufficient proof that the minor's interests would really suffer by his appointment as deputy, the Collector, Mr. Gawne dismissed the appeal in his proceedings, D.Dis.3364/34, dated 10.10.1934.

4. The Respondent having been born on 13.7.1916 completed his 21st year on 12.7.1937. Though he appeared for the Potail's Test soon after attaining majority in 1935, he secured a pass only in one part and secured a pass in the other part only in the Test held in October 1937. Taking advantage of the fact of the Respondent's failure to qualify himself in order to join the post before 13.7.1937, the petitioner filed a petition before the Tahsildar of Udipi on 19.1.1938 stating that the counter-petitioner forfeited his right to the post by his failure to qualify himself before 13.7.1937 on which date he completed his 21st year and requesting that necessary further action might be taken in the matter. The Respondent having fully qualified himself by that time, he filed a counter before the Revenue Divisional Officer on 27.1.38 praying for permission to join the post in which he was registered. At the enquiry held by the Tahsildar, the petitioner made a further allegation that the respondent was financially unsound. The Revenue Divisional Officer did not go into the question of property question of the respondent but, he declared that the respondent --- forfeited his post on account of his failure to qualify himself in order to join the post within his 21st year under sub-sec.

37

T. A.

C.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ...		
When copied ...	2/6	
When examined..	3.6.	
When signed		
When despatched.		

SUBJECT:—

V.O.s - Potail - Deputy - (S. Kanara) Udipi Tk - Alevur village - Appointment - Appeal by Srinivasa Bhatta - Allowed

READ AGAIN _____, dated _____ 19____.

" " _____ " _____ 19____.

READ *ALSO*:—

P. 3 Cf. No. A 6709/38 From the appellant's Compl. No. —, dated 12.12.19 38.

P. 33 Cf. " A 1233/38 Colr of S. Kanara, No. D.Dis 12314/38 d 4.3.39 19____.

P. 9 Cf. " — " S. Kanara Colr's order No. D.Dis 3855/38-7.10.38 19____.

Order / Resolution — Ms. / Rout. No. 1489, dated 31 (26) 5. 19 39.

PP 3-6 Cf

P. 9 Cf

PP 11-12. Cf

This is an appeal by Srinivasa Bhatta against the order of the Colr of S. Kanara No. D.Dis 3855/38 d. 7.10.38 (wh. set-aside order of the R.D.O. Coondapur No R.Dis 741/38 dated 24.5.38 registering Srinivasa Bhatta to the hereditary Office of Alevur village in the Udipi Tk, S. Kanara dt, and allowing the appellant who was the deputy for the previous registered minor, to continue as such

2/ The points

~~are~~ for consideration are
i) whether the Collr's ~~order which is based on the~~ in his order p. 9 cr-
assumption that the rule regarding forfeiture of office by registered minors applies only to ~~the~~ districts where Act III of 1895 is in force ~~and not to Akola~~, is correct and (ii) whether ~~the~~ in this case Collr's interference with an order passed by the R. DO in accordance with the rules and the prevailing practice and his action in appointing one who under the rules had forfeited office is justified

3/ The principles of hereditary succession, including the keeping of minors; are ~~rigidly~~ being observed in the S. Berars rigidly districts ~~at least~~ for a century past, and the prevailing view of the Board is that these should continue undisturbed. The Board is of the ~~further~~ view that so long as the principles of hereditary succession ~~are~~

M.3's observation at PP. 5-6 N
(J) and PP 7-8. (A) ?
Removed

Asst observation at P. 9. N.1

M.'s observation at P. 9 NF

followed, they must be strictly followed on the same lines as in the districts where Act III of 1895 is in force. The Board is therefore afraid that any variations from the practice, which is followed, in its opinion, would not only lead to complications, but would also be against public policy.

P. 9 NF

4/ It was on these principles of hereditary succession that successive minors were registered in this very case, which the collector himself has not questioned. Under the rules regulating succession of minors in herit-
P 521. Bk. (24) viz (1), Sec. 10 (5) of Act III of 1895 if a registered minor remains disqualified after 3 years of attaining majority he shall be deemed to have forfeited office and steps should at once be taken to fill up the vacancy, as if it arose as a result of his death. In the present case the registered minor, Krishna Bhatta (who was born on 13.7.916) completed his 21st year on 12.7.37 Not only was he aware that

he ought to qualify himself within the 3 years ~~of attaining majority~~ time prescribed, but he had also ample time to pass the tests. ~~He did not do so.~~ He completed his tests only in October 1937, ie: clearly after he had completed his 21st Year. He necessarily forfeited Office, being a registered minor the Board has held in such cases that forfeiture is automatic and ~~that~~ no one has discretion to extend the prescribed period of 3 years. By allowing the said, Krishna Bhatta who once forfeited Office, to enter upon his duties, the AR was enabled him to resume his rights to the Office, to the detriment of his next minor heir who was duly registered by the R. Do ~~This is opposed~~ not only to the rules of hereditary succession but also to the Board's Considered views ~~The Board's views~~ ~~is that a~~ person forfeiting an Office should be considered as civilly dead, his rights to the

P. 73 (P) P.I. on transl.

PP 11-12 CF

P. 4. CF (L.I.) Portion marked C

Office being finally extinguished.
Under no circumstances ~~therefore~~
can he renounce his claims to the
Office as has been allowed to be
done in the case. ~~Forfeiture~~
~~Items being mandatory~~, The only
Course is to appoint the Mgt-
ber the Mgt ber in the present
case is Annayya Bhatta and
he was duly registered for the
Office and the appellant Combin-
ed as deputy The Collr's interfer-
ence with the arrangement
~~which was~~ made in accordance
with the rules is therefore
not ~~justified~~ correct. The Board ~~therefore~~
accordingly sets aside his order No DDis 3855
38 d. 7.11.38 and restores
that of the R. Dy Coondapoor
No R. Dis 741/38 d 24.5.38.

P. 9 of

PPH-12 CF

P. 9 of

PPH-12 CF

Ans
25.5.39
26.5.39

To
Sri. Alemane Srinivasa Bhatta
C/o Sri. K.P. Bhatt
Advocate
No. 4 Law Chambers.
High Court Bldgs. Madras
(with enclosures returned) Pages 15-28 C/f the Bundle
To the Collr of S. Kanara
(2 Files. List returned)
Rd. & Rb Section

M.3
A.S.(LR)

Note file. A. 6709/38.

set up.

MIS - 3181 / 9.1.38 - (J)

Village Offices - Dy. Potail - (S. Kanara) Udipi Taluk - Alevoor village - Appointment - 1st Appeal - Srinivasa Bhatta

Mis 3857 / 13.12.37 (A)

Rt 5181 / 6.11.37 (C)

Rt 2518 / 20.6.38 (O)

Mis 3796 / 8.12.37 (P)

Mis 403 / 2.2.37 (L)

Mis 2858 / 18.8.36 (Z)

BP 8 Press / 20.1.37 (7)

PP 1-30 CF

A. 6709/38

A.S.(L.R)

Nonmeddling & Nonstatutory.

Deputy Potail (Headman) - Appointment.

2/ This purports to be a 1st appeal against the Collectors order at Page 9 CF. The appeal is admissible under B.S.O. 156 (3) as amended by B.P. 8 Press d 20.1.37 and is in time.

P. 9 CF

P. 870 BSO. Vol III (7)

3/ Briefly the facts of the Case are

The appellant Srinivasa Bhatta was the deputy for Minor Krishna Bhatta who was registered for the Potails' Office of the village in question. This registered minor remained unqualified even after he completed his 21st Year and so forfeited Office and in the vacancy thus caused, his younger brother Minor Annayya Bhatta was registered for the Office and the petitioner was allowed to Continue as deputy (by the R.D.O) It

13. CF

PP 11-12 CF

P. 12. CF

would appear that the said Krishna Bhatta ... P. 9 CF
qualified himself soon after and appealed
to the Coll against this order of the R. DO. PP 11-12 CF
The Coll set aside the R. DO's order and
allowed the appeal, as a result of which P. 9 - F
Krishna Bhatta became the headman (potail)
and Srinivasa Bhatta, the petitioner, ~~was not~~ ousted
from the deputy's post. Hence his ~~the~~
appeal to the Board. PP 3-6 CF

4/ The points for consideration
by the Board now, which are also the
main points of contention by the petitioner, P. 4 CF para (3)
are (i) whether the Coll's order, which seems P. 9 CF
to have been based on the assumption
that the rule regarding forfeiture of
office by registered minors applied only
to the districts where Act III of 1895 is
in force and not to others, is correct
and (ii) whether the Coll's interference P. 9 CF
with an order passed by the R. DO in PP 11 - 12 CF
accordance with the rules and the prevailing
practice, ~~was justifiable~~ and his action
in appointing one who under the
rules had forfeited office are justifiable.

5/ As regards both these points, it is submitted that
it is a recognised fact that the principles
of hereditary succession, including the
registry of minors and all the rules relevant

M.3

A.S.(L.R)

Paras put up.

S.K. Coll's D.Dis 3855/38 (K)
R.D.C's R.Dis 741/38 (V)
SP Rt 2518/206.38 (O)
" " 5184/6-11-37 (C)
~~" " 1525/1-4-39 (H)~~
SP Rt 287. 28.1.39 (L.1)
" " 3181 - 9.11.38 (J)
" " 3857 - 13.12.37 (A)
" " 3774 - 8.12.37 (P)
" " 403 - 2.2.37 (L)
" " 2858 - 18.8.36 (Z)
" 2733 - 11 9.29 (S)
SP. Press 44 - 29.5.28 (D)
Act VII of 1930 (T)

A.S.(L.R) P.3-6 cf

This is an appeal against the order of the S. Kanara Coll's P.9cf setting aside that of the R.D.O Coondapoor, registering PP 11-12cf Minor Annayya Bhatta to the headman's office of Aleem village in the Udipi Taluk and allowing the appellant Srinivasa Bhatta regd., who was the deputy for the previous Minor, to continue as such.

2/ The facts of the case briefly are:-

The appellant Srinivasa Bhatta, as already stated above, was the deputy for Minor Krishna Bhatta who was registered for the Potail office in question. This P.13 cf registered minor remained unqualified even after completing his 21st year and so forfeited office, and in the vacancy P. 11 cf thus caused, his younger brother, Minor Annayya Bhatta was registered and the appellant was allowed to continue as deputy by P. 12 cf the R.D.O. The said Krishna Bhatta 9 cf qualified namely subsequent to his having PP 1-7 cf (A) completed his 21st year, and appealed to PP 11-12 cf the Coll against the order of the RDO P. 9 cf referred to above. The Coll set aside the RDO's order and allowed the appeal as a result of which Krishna Bhatta became

the Patel and the appellant Eniwasa Bhatia was ousted from the deputy post hence the appeal to the Board

3/ the points for consideration by the Board now, which are also the main points of contention by the appellant are (i) whether the Ally order, seems to have been based on the assumption that the rule regarding forfeiture of office by registered minors applies only to the districts where Act III of 1898 is in force and not to others, is correct and (ii) whether the Govt interference with an order passed by the R. D.O. in accordance with the rules and the prevailing practice and his action in appointing one who under the rules had forfeited office, is justifiable

4/ As regards these points it is submitted that it is a recognised fact that the principles of hereditary succession, including the vesting of minors as in the present case, and the rules relevant thereto, are rigidly observed in the S. Kanara district. Apart from what the Ally has stated in para (6) of his report at page 35 - 36 of and in para (2) of his order appealed against, the prevailing

P.12 CF

Khatter and he was duly registered for the office and the appellant Continued

P. 9 CF

as deputy the Collr's interference with this arrangement which was made in accordance with the rule, would not in view of the position stated above, seem to be in order and his proceedings would therefore seem liable to be set aside

P 9 CF

Alm
29.4.39.
25.5.39
KV
26.5.39

For orders

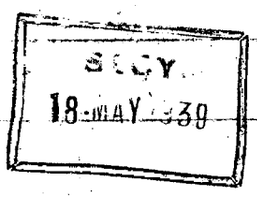
If this handicap system is to be followed it should be followed on the same lines as in the handicap trades. Variations cannot be made as they lead to complications & would be against public policy. The appeal may be allowed & the R.D.O's orders restored.

Notice prompt & Registered

Law
15.5.39

H-3

I agree - the system if followed must be strictly followed.



A. S. (L. R)

A. S. (L. R)

Draft Submitted.

This is the last case I have received in this stream.

Alm
25.5.39
KV
26.5.39

Law
26/5/39

AS (LR)

B.P.No. Mis. 1489

Dated 31.5.39

Single Member.

Two Members.

Full Board.

I-A.	A.D.S. & L.R.	Asst. Secretary. Land Rev.	Sett.	Sep. Rev.	J.S. Secy.	M 3	M 2	M 1

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(1) Open file seen by

(2) Final draft seen by

(3) Now circulated to

(4) Initials

Passed for record.

Secretary
Joint Secretary

~~A.S.(C.W.)~~

A.S.(L.R.) 4/7639

~~A.S.~~(Sett.)

A.S.(Excise)

A.D.S. & L.R.

I-A.

*Note.- Entries not required to be scored out.